

(12) The parties certify that two-way communication has occurred between persons having authority in a good faith effort to explore the resolution of the controversy by settlement but those efforts were unsuccessful.

**Plaintiff's Statement:**

Plaintiff's counsel sent a letter to the EEOC investigator with a settlement offer of approximately \$650,000 for this matter on September 15, 2005, and requested that the offer be communicated to the employer. Defendants indicated that they did not receive that offer. Current defense counsel did not represent the employer at the EEOC level. Accordingly, at current defense counsel's request, plaintiff's counsel re-communicated the settlement offer via fax on May 1, 2006. Plaintiff then made a revised settlement offer of \$325,000 on February 12, 2007. Due to Judge Jordan's appointment to the Third Circuit and the assignment of his trial docket to Magistrate Judge Thyng, the Mediation Settlement Conference previously scheduled before Judge Thyng was canceled. To date, Defendants have made no offers or counteroffers in this litigation. There have been no further settlement discussions between the parties.